IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 9737 of 2003

Between:

1. I. Srinivasu S/o. Venkanna, Occ: Office Boy, The Kallakuru Primary Agricultural Cooperative Credit Society Limited, No.154, Kavallakuru, Kalla Mandal, West Godavari District.
2. S. Trimurthulu, S/o. Venkateswara Rao, Sales Assistant, The Kallakuru Primary Agricultural Cooperative Credit Society Limited, No.154, Kavallakuru, Kalla Mandal, West Godavari District.
3. P. Jhansi Rani, W/o. Lachiraju, Attender, The Kallakuru Primary Agricultural Cooperative Credit Society Limited, No.154, Kavallakuru, Kalla Mandal, West Godavari District.

... PETITIONERS

AND

1. The Government of Andhra Pradesh rep.by its Secretary, Agriculture and Cooperation Department, Secretariat, Hyderabad.
2. The Commissioner and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.
3. The District Cooperative Officer, West Godavari District, Eluru.
4. The Kallakuru Primary Agricultural Co-operative Credit Society Limited, No.154, Kallakuru, Kalla Mandal, West Godavari District by its Chair-Person.

5. The General Manager, District Co-operative Central Bank Limited,

Eluru, West Godavari District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction declaring the action of the 3rd respondent in directing the 4th respondent to terminate the services of the Employees on the ground that their appointment is contrary to Act 2 of 1994 vide circular RC.No.Establishment/P.I.C. Committee/2002-03 dated 21.03.2002 and the consequential Notice Dated 28.04.2003 issued by the 4th respondent herein as illegal, arbitrary, unreasonable, null and void , without jurisdiction and violative of Articles 14, 16 and 21 of the Constitution of India and contrary to the A.P.Shops and Establishment Act

Counsel for the Petitioners: MR.A.V.SESHA SAI

Counsel for the Respondents 1 to 3: GP FOR AGRICULTURE

Counsel for the Respondent No.5: MRS. A. MALATHI

Counsel for the Respondent No.4: None Appeared

The Court made the following order:

ORDER:

Immediately after allowing the Rev.WPMP.No.29485 of 2004 the learned counsel appearing for the respective parties have advanced their arguments that in similar matters this Court held that Andhra Pradesh (Regulation of Appointments to Public Services and Rationalization of Staff Pattern and Pay Structure) Act, 1994 (Act 2 of 1994) has no application either for appointment or for removal/retrenchment of the employees of the Cooperative Societies and as per the judgment of this Court in WP.No.3171 of 2003 and batch dated 30.08.2004 the criteria either for appointment or removal of employees of the cooperative societies shall be in accordance with mandatory provisions under Section 116 (C) (1) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') read with Rules 28 (4) (b) and 36 (B) of the Andhra Pradesh Cooperative Society Rules.

It is asserted by the learned counsel appearing for the petitioners that the appointment of the petitioners was made after getting necessary approval from the Registrar of Cooperative Societies. If the said appointment is in conformity fulfilling the requirements under Section 116 (C) (1) of the Act and the rules thereunder it cannot be said that the appointment is

illegal merely because the appointments made subsequent to 1995 is contrary to the Act 2 of 1994 and in violation of the said Act 2 of 1994.

I have taken an opinion in WP.No.3171 of 2003 and batch dated 30.08.2004 that Act 2 of 1994 has no application either for the appointment or for removal of the employees of the Cooperative Societies and the only criteria either for appointment or for removal or for continuance must be in accordance with the said mandatory provisions under Section 116 (C) (1) of the Act. As the service of the petitioners is sought to be terminated only on the ground that their appointment was made without obtaining prior permission from the competent authorities in violation of Act 2 of 1994, I am of the opinion that said ground for termination is unsustainable and contrary to the provisions under Section 116 (C) (1) and the rules made thereunder.

Accordingly, the impugned order dated 28.04.2003 is set aside and the writ petition is allowed. However, this order does not preclude the respondents from taking appropriate action against the petitioners if their appointment or continuance is not in conformity to the principles as laid down under Section 116 (C) (1) of the Act r/w rules 28 (4) (b) and 36 (B) of the Andhra Pradesh Cooperative Society Rules. No costs.

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V. ESWARAIAH, J

December 16, 2004

Dsk

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Thursday the Sixteenth day of December Two thousand and Four.

To

1. The Government of Andhra Pradesh rep.by its Secretary, Agriculture and Cooperation Department, Secretariat, Hyderabad.
2. The Commissioner and Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad.
3. The District Cooperative Officer, West Godavari District, Eluru.
4. Two CCs to GP For Agriculture, High Court Buildings, Hyderabad (OUT)
5. Two CD Copies.